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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA

Case No. 09-cr-40-1-BR

v.

HAROLD JAMES NICHOLSON,
Defendant.

**STATEMENT OF FACTS IN
SUPPORT OF PLEA AGREEMENT**

If this case had proceeded to trial the United States would have proved the following facts beyond a reasonable doubt.

Background

Defendant is currently serving a 283-month federal sentence in the custody of the Bureau of Prisons at the Federal Correctional Institution (FCI) in Sheridan, Oregon, in the District of Oregon, having pled guilty in 1997 to Conspiracy to Commit Espionage, in violation of Title 18, United States Code, Section 794(a) and (c). Defendant has been housed at FCI Sheridan since

August 1997. As part of defendant's plea agreement, he admitted that he provided the Russian Federation classified national defense information that he obtained through his sixteen-year career with the Central Intelligence Agency (CIA). Defendant admitted that between June 1994 and November 16, 1996, he provided the Russian Federation documents, photographic negatives and information relating to the national defense of the United States, with the intent and reason to believe that the same would be used to the injury of the United States and to the advantage of the Russian Federation.

The government of Russia is a foreign government currently known as the Russian Federation and operates a foreign intelligence service known as the Sluzhba Vneshney Razvedki Rossii (SVRR). The SVRR is the successor to the Committee for State Security of the Union of Soviet Socialist Republics, commonly known as the KGB. It is also commonly referred to as the "SVR."

On June 5, 1997, defendant was sentenced in the Eastern District of Virginia to the custody of the Bureau of Prisons for 283 months. Defendant also forfeited real property and the proceeds of his espionage activity, including funds held in a bank account in Switzerland. At the time defendant was sentenced he was divorced and had sole custody of his three children, including codefendant Nathaniel Nicholson, who was then age twelve. When defendant was sent to FCI Sheridan, his children moved to Eugene, Oregon, to live with their grandparents.

The Conspiracies: Conspiracy to Act as an Agent of a Foreign Government and
Conspiracy to Commit Money Laundering

In the summer of 2006, defendant and his son began to discuss the possibility of approaching officials of the Russian Federation and asking if they would be willing to provide financial assistance to Nathaniel and his two siblings. In June 2006 Nathaniel was twenty-two years old and

was living in Eugene, Oregon where he attended Lane Community College. In 2004 Nathaniel received a medical discharge from the United States Army after he was injured in a parachuting accident during a training exercise while on active duty. After being discharged from the Army, Nathaniel returned to Oregon to go to school and pursue a degree in architecture. Since his father was sent to prison in November 1996, and until December 15, 2008, Nathaniel has had regular communication with defendant by telephone, letters, and in-person visits at FCI Sheridan.

In the summer of 2006, defendant suggested that Nathaniel could contact officials at a Russian consulate who would be willing to forward their requests for financial assistance to appropriate authorities. Nathaniel was excited about the prospect of acting in a clandestine fashion like his father. Before Nathaniel could contact officials of the Russian Federation, defendant suggested Nathaniel learn the location of the nearest Russian consulate and be mindful of whether he was being followed. In August 2006 Nathaniel applied for a United States passport.

Over the next two years, from October 2006 to December 2008, Nathaniel met with representatives of the Russian Federation on his father's behalf six separate times. Those meetings occurred in San Francisco, California on two occasions in October 2006; in Mexico City, Mexico in December 2006 and July 2007; in Lima, Peru in December 2007; and in Nicosia, Cyprus in December 2008. A seventh meeting was scheduled to take place in Bratislava, Slovakia in December 2009.

October 2006 Meetings With Russians in San Francisco, California

Once Nathaniel received his passport, he followed defendant's suggestion and located the Russian consulate in San Francisco. In early October 2006, Nathaniel traveled to the Russian consulate in San Francisco and asked for the Chief of Security. Nathaniel provided the Chief of

Security three pieces of paper he had received from defendant. The papers Nathaniel gave the Russians were given to him by defendant secretly while Nathaniel was visiting defendant at FCI Sheridan. One of the pieces of paper Nathaniel read and understood to be a "letter of introduction," that introduced Nathaniel to the Russians. The letter began with greetings from defendant to his "friends," and contained an introduction of Nathaniel as defendant's son. The letter contained a photograph of Nathaniel and defendant taken inside FCI Sheridan. Another piece of paper Nathaniel provided the Russians contained a request by defendant for money. According to Nathaniel, he was asked to fill out a form that appeared to be some kind of visa application. The Russian took the form and asked Nathaniel what he would say if he "got caught" visiting the Russian consulate. Nathaniel told the Russian his cover story would be that he was studying architecture, and that he was at the consulate asking about Russian architecture. At the end of the meeting, Nathaniel was told to leave and return in two weeks. When Nathaniel returned to Oregon he visited defendant at FCI Sheridan and reported the results of his trip. Defendant was disappointed that Nathaniel had not received any money, but he told Nathaniel he should return to the Russian consulate in San Francisco as the Russian had directed.

On October 26 or 27, 2006, Nathaniel returned to the Russian consulate in San Francisco, California, and met with the same Russian he met with during the first meeting. Nathaniel was instructed to turn off his cell phone and take off his watch. According to Nathaniel the Russian was more friendly and almost apologetic. He informed Nathaniel that they wanted to help as much as they could. The Russian told Nathaniel that they had attempted to call "Uncle Leonard" but had been unable to reach him and did not leave a message. Nathaniel knew that "Uncle Leonard" was longtime family friend Leonard Beystum. The Russian gave Nathaniel \$5000 in \$100 bills. The

Russian then told Nathaniel it was not safe to continue to meet in the United States, and gave Nathaniel the address of the Russian embassy in Mexico City where he was to go in December 2006. Nathaniel wrote on the back of one of his business cards the address: "Jose Vasconcelos 204, Colonia Hipdromo Condesa, Delegacion Cauhtmoc, 06140, Mexico, D.F." On Nathaniel's drive back to Eugene from the second trip to San Francisco defendant called Nathaniel and, in coded language, Nathaniel told him he got \$5000 from the Russians.

In October and November 2006, Nathaniel visited defendant at FCI Sheridan to advise him of the details of his two meetings with the Russian Federation in San Francisco, California. In October 2006 Nathaniel dispersed some of the \$5000 received from the Russian Federation to his grandparents and siblings as instructed by defendant. Defendant told Nathaniel to use Nathaniel's grandparents as a cover story to conceal the fact that Nathaniel had gotten the money from the Russian Federation.

December 2006 and July 2007 Meetings With Russians in Mexico City, Mexico

On December 11, 2006, Nathaniel purchased an airline ticket for \$803.84 in cash from a travel agency in Springfield, Oregon, for travel on December 12, 2006, from Portland, Oregon, to Mexico City, Mexico, returning to Portland, Oregon, on December 17, 2006. Defendant previously told Nathaniel to pay for his travel with cash to avoid a "paper trail." On December 12, 2006, Nathaniel traveled from Portland, Oregon to Mexico City, Mexico for the third meeting with Russian officials. Nathaniel was directed to appear at the Russian consulate at Jose Vasconcelos 204, Colonia Hipdromo Condesa, Delegacion Cauhtmuc, 06140, Mexico, D.F. and ask for the Chief of Security, which he did. On this occasion Nathaniel was taken to a room and met with an older Russian man who identified himself to Nathaniel as "George." Investigators later determined that

George is Vasiliy Fedotov, who is known to the Federal Bureau of Investigation (FBI) as a former high-ranking officer with the KGB.

According to Nathaniel, at this first meeting in Mexico City, he provided Fedotov with notes defendant had written on napkins that he secretly passed to Nathaniel during visits at FCI Sheridan. The notes contained defendant's request for more money and communicated to the Russians that he would help them if he could. Fedotov inquired about the well being of Nathaniel's family and told Nathaniel to reassure defendant that the Russians were willing to help him and his family. Fedotov also told Nathaniel to tell defendant that they (the Russians) had received his letters. Fedotov asked Nathaniel to ask defendant about the details of how he was ultimately caught and arrested for espionage, including the circumstances surrounding a transfer of defendant while he was a CIA officer, and when defendant first suspected he was under surveillance. Fedotov also wanted to know from defendant information about defendant's cancelled posting as a CIA officer in a foreign country, and who had interrogated him after his arrest. Fedotov provided Nathaniel with \$10,000 in \$100 bills.

During the meeting, Fedotov specifically asked Nathaniel about defendant's health and the procedures for visiting him at FCI Sheridan. Fedotov asked about his siblings and their various debts and questioned Nathaniel about his cover story for his travel. At the end of the meeting Fedotov pulled out a calendar to schedule the next meeting in the summer of 2007 in Mexico City. To remember his directions from Fedotov and the questions Fedotov had for defendant, Nathaniel wrote the following notes on the back of business cards he had in his wallet: "July 10th-12th, 10am-1pm, Let know letters were received, His version - of the reasons which lead [sic] for the suspecician

[sic], the investigation.” The date “10th” is circled on the card which refers to Nathaniel’s July 10, 2007, trip to Mexico City, Mexico, to meet with Russian intelligence officials.

On December 17, 2006, Nathaniel traveled from Mexico City, Mexico, to Portland, Oregon, transporting approximately \$10,000 in United States currency received from Fedotov on behalf of the Russian Federation, in a manner intended to conceal the source. Defendant had previously told Nathaniel to hide the money in different places on his person and not keep all the money in one place upon his return to the United States. On December 23, 2006, Nathaniel visited defendant at FCI Sheridan to advise him of the details of his contact with the Russian Federation in Mexico City. Defendant directed Nathaniel to disperse the \$10,000 received from the Russian Federation to his grandparents and siblings. Defendant advised Nathaniel not to deposit any more than \$500 in cash in his bank account to avoid suspicions regarding the source of the money. Defendant again instructed Nathaniel to tell his siblings the money came from Nathaniel’s grandparents’ craft sales, and they wanted to help the grandchildren with their expenses.

During his meetings with Nathaniel, defendant repeatedly assured him that he was doing nothing illegal but cautioned him about telling anyone about his meetings with the Russians and the money he received. Defendant praised Nathaniel on the good job he had done, telling him that he had performed as well as or better than some of the CIA employees defendant had trained. Defendant continued to write more letters to Nathaniel, always offering words of encouragement and praise. Defendant would cite scripture that, according to Nathaniel, had special meaning for Nathaniel in the context of their efforts to collect money from the Russians. Nathaniel always took strength from the notion that he was helping the family by following his father’s bidding.

On February 7, 2007, consistent with the instructions from Fedotov, Nathaniel purchased an airline ticket for \$502.69 in cash from a travel agency in Springfield, Oregon, for travel on July 9, 2007, from Portland, Oregon, to Mexico City, Mexico, returning to Portland, Oregon, on July 12, 2007. Between the dates of December 23, 2006, and July 6, 2007, at FCI Sheridan, defendant secretly provided written information to Nathaniel and instructed Nathaniel to deliver the information to Fedotov at the next meeting in Mexico City, Mexico.

On July 10, 2007, Nathaniel returned as directed to the Russian consulate in Mexico City, Mexico and met with Fedotov. Nathaniel brought a note to Fedotov that was provided to him by defendant. The note from defendant offered thanks to the Russians for the money Nathaniel had received and the assurances the money would not be wasted. It also offered assurances of Nathaniel's trustworthiness and contained information about the debts of Nathaniel's siblings, Jeremiah and Astralena, and another appeal for more financial assistance. According to Nathaniel, the note also talked about defendant's belief that he may have been followed in Malaysia and may have been followed from Malaysia to Singapore. The notes said something about defendant's belief that a "contact" he met with was "tainted." Defendant also provided his recollection of the agencies that were represented by the agents who interrogated him. Fedotov gave Nathaniel \$10,000 in \$100 bills and told Nathaniel the next meeting would be in December 11, 2007 at the Russian consulate in Lima, Peru. Fedotov provided Nathaniel with a Mexican Yahoo email account through which Nathaniel could communicate with Fedotov prior to the meeting in Lima, Peru.

On July 12, 2007, Nathaniel traveled from Mexico City, Mexico, to Portland, Oregon, transporting approximately \$9080 in United States currency he received from Fedotov, in a manner intended to conceal its source. On July 14, 2007, Nathaniel visited defendant at FCI Sheridan to

advise defendant of the details of his contact with the Russian Federation in Mexico City. Defendant directed Nathaniel to disperse the funds received from the Russian Federation to his grandparents and siblings.

December 2007 Meeting With Russians in Lima, Peru

On October 11, 2007, Nathaniel purchased an airline ticket for \$1,160.70 in cash from a travel agency in Springfield, Oregon, for travel on December 10, 2007, from Portland, Oregon, to Lima, Peru, returning to Portland, Oregon, on December 13, 2007. Between July 14, 2007 and December 1, 2007, at FCI Sheridan, defendant provided information to Nathaniel and directed Nathaniel to deliver the information to the Russian Federation at the next meeting in Lima, Peru.

On December 10, 2007, Nathaniel followed Fedotov's directive and traveled to Lima, Peru to meet Russian officials at the Russian consulate located at Avenida Salaverry 3424 in Lima. Nathaniel again met with Fedotov and provided him with an additional note Nathaniel had received from defendant. At defendant's request, Nathaniel also provided Fedotov with a letter that defendant had sent to Nathaniel before he left for Peru. The letter mentioned several South American countries, including Peru. Nathaniel understood that this letter had two purposes. First, it could be used by Nathaniel in the event he was questioned about his travels as documentation of his interest in visiting the particular locale. Second, it could help establish Nathaniel's bone fides as defendant's son in the event Nathaniel met a new Russian official. Defendant told Nathaniel that his letters would include several countries in a list of places to visit because he knew the CIA was reviewing his mail based on the terms of his incarceration. At the meeting in Lima, Fedotov provided Nathaniel with \$10,000 in \$100 bills and inquired as to how his family was doing. Fedotov instructed Nathaniel not to bring any more messages with him because it was too risky. Fedotov

directed Nathaniel to meet him a year later on December 10, 2008 in Nicosia, Cyprus at the TGI Fridays at 12 Diagorou Avenue on at 7:00 p.m. Fedotov provided Nathaniel with a password and a signal for the next meeting in Cyprus. Fedotov instructed Nathaniel to use the Mexican email account to confirm the meeting.

On December 13, 2007, Nathaniel traveled from Lima, Peru, to Portland, Oregon, transporting approximately \$7013 in United States currency received from the Russian Federation, in a manner intended to conceal its source. On December 13, 2007, Nathaniel entered the United States from Peru in possession of a small notebook containing clandestine communication instructions on how to communicate in code via an Internet email account about the next meeting in Nicosia, Cyprus, on December 10, 2008. The notebook also contained coded messages to be used by Nathaniel when he met with the Russian Federation to confirm his identity, and questions for defendant regarding the details that led to his 1996 arrest by the FBI for espionage. These are notes Nathaniel had made in the notebook at the previous meetings with Fedotov in Mexico City, Mexico and Lima, Peru.

On December 15, 2007, Nathaniel visited defendant at FCI Sheridan to tell defendant about the details of his contact with Fedotov in Lima, Peru. Defendant instructed Nathaniel to disperse the funds received from the Russian Federation to his grandparents and siblings. During a visit with defendant after the Lima trip, Nathaniel told defendant he had read the notes provided to him by defendant prior to the second Mexico City trip and the Lima trip.

On May 21, 2008, as instructed by Fedotov, Nathaniel sent the following coded email message confirming their next meeting in Cyprus:

SUBJECT LINE: Hola Nancy!

Hello Sweetie! How are you? I'm good. Sorry for taking so long to write to you... you know how work is and all. Anyways, things are good. It looks like I will still be able to go on that vacation! I will keep you updated on that though. I am very much looking forward to it, and to seeing you again! Well hon, I just thought I'd say "hi" since I had the time!

On August 31, 2008, defendant sent Nathaniel a six-page letter that contained detailed biographical information about defendant, his family, and close friends. The letter also included information about defendant's most recent health checkup, information about Nathaniel's siblings. Defendant also told Nathaniel to obtain information about his debts and debts of his brother and sister and to relay that information to the Russians. Defendant told Nathaniel the letter was intended for delivery to the Russians in Cyprus on December 10, 2008.

On October 10, 2008, as instructed by Fedotov, Nathaniel sent the following coded message via a covert email account confirming the next meeting in Cyprus:

Hola Nancy! It is great to receive your message! I love you too. I hope to see you soon! The best regards from my brother Eugene!
-Love
Dick

Nathaniel followed Fedotov's instructions and logged into the secret email account provided to him by Fedotov to check for further instructions and directions for the next meeting in Cyprus on the following dates in Eugene, Oregon: October 10, 2008; October 15, 2008; October 17, 2008; October 23, 2008; October 29, 2008; November 3, 2008; November 7, 2008; November 14, 2008; and November 20, 2008.

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December 2008 Meeting With Russians in Nicosia, Cyprus

On November 17, 2008, Nathaniel purchased an airline ticket for \$1,584.41 in cash from a travel agency in Eugene, Oregon, for travel on December 8, 2008, from Portland, Oregon, to Cyprus, returning to Portland, Oregon, on December 14, 2008.

On December 6, 2008, Nathaniel visited defendant at FCI Sheridan to discuss his upcoming travel to Cyprus. As he had done before, defendant gave Nathaniel advice on how to be aware of his surroundings and be alert to possible surveillance. On December 8, 2008, Nathaniel traveled from the District of Oregon to Cyprus to meet with Fedotov. On December 10, 2008, Nathaniel arrived in Cyprus and took a taxi to the Hilton Hotel. An employee gave him directions and a map to the TGI Fridays. As he was instructed by Fedotov, Nathaniel walked to the TGI Fridays and stood in front of the restaurant with his black and gray backpack in his right hand at 7:00 p.m. He was approached by Fedotov who stated the pass phrase, "can you show me the way to the federal post office?" Nathaniel replied as Fedotov previously instructed, "it should be around here somewhere." Fedotov then directed Nathaniel into a dark blue European car and told him not to speak while they were in the car. Nathaniel got in the back seat and Fedotov got in the front seat. A driver drove them for approximately twenty minutes until they arrived at a gated location. They drove into an underground parking area. Nathaniel was escorted to a "padded" room that Nathaniel assumed was a soundproof room where he and Fedotov met for one to two hours. Nathaniel provided Fedotov with the four-page letter from defendant dated August 31, 2008, addressed to Nathaniel. Fedotov gave Nathaniel \$12,000 in \$100 bills, and instructed Nathaniel the next meeting would take place on December 16, 2009 at 7:00 p.m. at a specified location in Bratislava, Slovakia. At the conclusion of the meeting, Nathaniel was driven back to the Hilton Hotel.

On December 14, 2008, Nathaniel traveled from Cyprus to Portland, Oregon, transporting approximately \$9500 in United States currency received from the Russian Federation, in a manner intended to conceal its source. At the direction of defendant, Nathaniel sent \$200 to defendant's fiancé in Thailand while in he was in Cyprus.

At no time during the conspiracy did the defendant seek or obtain authorization from the Attorney General of the United States to act on behalf of the Russian Federation.

The above facts are true and correct to the best of my knowledge and belief. I took the above actions knowingly and willfully, not by accident or mistake.


HAROLD JAMES NICHOLSON
Defendant
SAMUEL KAUFFMAN
Attorney for Defendant

Respectfully submitted this 8th day of November 2010.

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